

REMARKS

Claims 1-18 are pending in the present application. Claims 1-12 are rejected. Claims 1-12 herein amended. New claims 13-18 have been added. No new matter has been entered.

With respect to the added limitations and claims, Applicants note that:

“a cosmetically effective agent” in the amended claim 4 is supported by the formulation example 1 in the specification. (see [0075])

“a medicinally effective agent” in the amended claim 7 is supported by the formulation example 2 in the specification. (see [0076])

“a nutritionally effective edible substance” in the amended claim 10 is supported by the formulation example 3 in the specification. (see [0077])

The new claims 13 to 18 are supported by the description in [0044]).

Claim Rejections - 35 U.S.C. §102

Claims 1-9 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,630,847 to Roetker et al.

The Examiner views cosmetics, toiletries, and medicine containing the antiseptic disinfectant as intended uses, which are given no patentable weight. The Examiner notes that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish from each other.

Applicants herein amend the claims to more particularly define the invention. Thereafter, Applicants submit that not all of the claimed limitations are met by the cited reference.

The cited reference discloses the dry cleaning composition including the combination of 1,2-octanediol and eugenol.

In contrast, the amended claim 1 relates to the antiseptic disinfectant containing one or more materials selected from a group consisting of 1,2-pentanediol, 1,2 hexanediol, 1,2-heptanediol, 1,2-nonanediol, and 1,2-decanediol, and one or more materials selected from the group consisting of thymol, eugenol, citronellal, terpinyl acetate, citronellol and β -pinene.

Amended claim 2 relates to the antiseptic disinfectant containing 1,2-alkanediol with 5-10 carbons, and one or more materials selected from the group of thymol, citronellal, terpinyl acetate, citronellol and β -pinene.

The cited reference fails to teach each of the limitations of the present claims 1 and 2.

Applicants submit that because claim 3 is dependent from and necessarily includes the limitations of parent claim 2, claim 3 is similarly distinguished from the cited reference.

Applicants note that amended claims 4 to 6 comprise a structure of “comprising” a cosmetically effective agent” and a structure of “being suitable for use on humans or animals” besides the combination of 1,2-octanediol and eugenol. Because there is now clearly seen a structural difference, Applicants submit that claims 4-6 are novel over the cited reference. Further, there is clearly no suggestion to mix the composition of the cited reference with the limitations respectively added to claims 4-6.

Applicants note that amended claims 7-9 comprise a structure of “comprising a medicinally effective agent” and a structure of “being medicinally effective on humans or animals” besides the combination of 1,2-octanediol and eugenol. Because there is now clearly

seen a structural difference, Applicants submit that claims 7-9 are novel over the cited reference. Further, there is clearly no suggestion to mix the composition of the cited reference with the limitations respectively added to claims 7-9.

Claims 13 to 18 are herein added to the application.

Claim 13 includes a structure of “combining 1,2-alkanediol with 5-10 carbons with one or more materials selected from a group of thymol eugenol, citronellal, terpinyl acetate, citronellol and β -pinene to form an antiseptic disinfectant” and a structure of “adding the antiseptic disinfectant to a cosmetic and toiletries, medicine or food”, and the cited references do not disclose this combination of the “combining step” and “adding step”. Therefore, new claim 13 is novel over the cited references.

The new claims 14 and 15 are novel over the cited references, because the claims are dependent from claim 13, which is been already distinguished as noted above.

New claim 16 includes the structure of “combining the antiseptic disinfectant with cosmetically effective agent to form a cosmetic and toiletries”, and the cited references do not disclose the claimed combination. Therefore new claim 16 is novel over the cited references.

The new claim 17 includes the structure of combining the antiseptic disinfectant with a nutritionally effective agent to form a medicine”, and the cited references do not disclose the claimed combination. Therefore, the new claim 17 is novel over the cited references.

The new claim 18 includes the structure of “combining the antiseptic disinfectant with a nutritionally effective edible substance to form a food”, and the cited references do not disclose the claimed combination. Therefore, new claim 18 is novel over the cited references.

Claims 1-9 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2004-0123775 A1 to Ono et al.

Applicants submit that this rejection does not require consideration because the reference may be removed from consideration. Applicants note that the present invention was filed on June 30, 2004, but claims priority to JP 2002-281678 filed on September 26, 2002. We further note that Ono et al. was filed on December 27, 2002. Therefore, Applicants herein remove this reference from use in any rejection of the present claims by submitting a verified English translation of JP 2002-281678.

Claim Rejections - 35 U.S.C. §103

Claims 10-12 are rejected under 35 U.S.C. §103(a) as being obvious over Ono et al. (U.S. Patent Application No. 2004-0123775 A1) as applied to claims 1-9 and further in view of Jensen et al. (U.S. Patent No. 2,550,255).

The Examiner notes that Ono et al. teach the composition as discussed above, but fails to disclose foods that contain this composition. The Examiner asserts that it would have been prima facie obvious to use this spraying composition on foods because Ono et al. teaches the anti-microbial properties of 1,2-octanediol. The Examiner asserts that a person would have been motivated to use the spraying composition taught by Ono et al. on foods because the anti-bacterial properties of 1,2-octanediol can be used as a preservative on foods to prevent spoilage and decomposition.

As noted above, Applicants submit that this rejection does not require consideration because the reference is herein removed by submitting a verified English translation of JP 2002-281678.

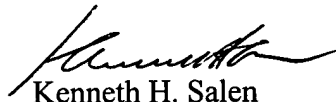
In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Kenneth H. Salen
Attorney for Applicants
Registration No. 43,077
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

KHS/cas

Attachments: Certificate of Translation
Verified English Translation
Original JP 2002-281678